



May 2, 2007

VIA ECFS

Ms. Marlene Dortch
Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, DC 20554

Re: MB Docket No. 05-181
Implementation of the Satellite Home Viewer Extension and Reauthorization
Act of 2004 to Amend Section 338 of the Communications Act
Written Ex Parte Communication of DIRECTV, Inc.

Dear Ms. Dortch:

DIRECTV, Inc. ("DIRECTV") currently carries the signals of all local stations in Alaska and Hawaii in standard definition ("SD") digital format, which subscribers can view on all analog and digital television receivers. In a few weeks, however, the Commission's digital television signal carriage requirements for direct broadcast satellite ("DBS") operators serving Alaska and Hawaii are scheduled to go into effect. These rules require DBS operators to carry the entire free over-the-air digital signal, including multicast and high definition ("HD") signals, originating from each television broadcast station located in Alaska and Hawaii by June 8, 2007.¹ Due to exigent circumstances beyond its control, DIRECTV respectfully requests additional time to come into compliance with the Commission's digital carriage requirements.²

¹ See *Implementation of the Satellite Home Viewer Extension and Reauthorization Act of 2004 to Amend Section 338 of the Communications Act*, 20 FCC Rcd 14242 (2005) ("R&O"). These digital carriage requirements were adopted pursuant to Section 210 of the Satellite Home Viewer Extension and Reauthorization Act of 2004 ("SHVERA"), codified at 47 U.S.C. § 338(a)(4). As discussed herein, DIRECTV will not be able to satisfy the additional Commission-imposed requirements to carry the HD and multicast signals of such stations by June 8, 2007. Nonetheless, as DIRECTV previously has argued, SHVERA does not expressly require either high definition ("HD") or multicast carriage in Alaska and Hawaii. See *Petition for Partial Reconsideration of DIRECTV, Inc.*, MB Docket No. 05-181, at 5-9 (filed Sept. 30, 2005). Consequently, DIRECTV respectfully submits it is in compliance with SHVERA's express requirement to carry the "digital signals" of stations in Alaska and Hawaii.

² To be clear, DIRECTV does not seek an extension of SHVERA's statutorily mandated deadlines or requirements. In the R&O, the Commission interpreted the phrase "digital signals" in Section 210 of SHVERA to impose a requirement that satellite operators must carry "the entire free over-the-air signal, including multicast and high definition digital signals," of all stations in Alaska and Hawaii upon request. 47 C.F.R. § 76.66(b)(2); see also R&O ¶ 16. DIRECTV's *Petition for Partial Reconsideration* of that decision now has been pending for more than 18

On January 30, 2007, a rocket carrying a New Skies satellite exploded upon lift-off from the oceangoing Sea Launch platform.³ The satellite was a total loss, and the Sea Launch platform suffered significant damage from the explosion. As a result, planned satellite launches on the Sea Launch platform have been postponed for several months pending repairs and an investigation into the cause of the failure. Among the affected satellites is DIRECTV 11. Originally scheduled for launch this year, DIRECTV 11 now is not expected to be launched until early 2008. The DIRECTV 11 satellite is equipped with spot beams that will retransmit digital signals originating in Alaska and Hawaii. Thus, once DIRECTV 11 becomes operational, DIRECTV will be better able to provide local-into-local digital service in Alaska and Hawaii.⁴

When the Commission adopted the digital carriage requirements for stations in Alaska and Hawaii nearly two years ago, it dismissed as “speculative” DIRECTV’s argument that mandatory HD and multicast carriage would impose a substantial capacity burden on DIRECTV’s system.⁵ That burden is no longer speculative. DIRECTV currently carries 17 analog signals in SD format originating from stations in Alaska. Based on the recent digital carriage elections received from the stations, DIRECTV will have to carry 14 HD and 12 SD signals in Alaska. In Hawaii, DIRECTV’s carriage burden will increase from 7 analog signals to 4 HD and 12 SD signals. DIRECTV currently carries a total of 41.6 Mbps received from stations in Alaska and Hawaii. Its future carriage obligation in these states will increase to 162 Mbps. Thus, in total, the satellite capacity required to serve just these two states will increase by 389 percent.

With the satellite capacity DIRECTV currently has available, it cannot meet these additional carriage obligations in Alaska and Hawaii by the June 8 deadline. Theoretically, DIRECTV could meet such obligations by severely curtailing national and local programming throughout the country, and shifting the resulting capacity to add the additional services in Alaska and Hawaii. However, in that event, millions of DIRECTV subscribers would lose access to the local and national programming upon which they have come to rely, including access to news and emergency information.

months. In the absence of affirmative action on its petition, DIRECTV requests that the Commission extend the deadline for complying with its interpretation of SHVERA’s digital carriage requirement. To the extent the Commission has authority to extend SHVERA’s statutory digital carriage deadline in light of the extraordinary and exigent circumstances prompting this request, DIRECTV urges it to do so.

³ See *Communications Daily*, Feb. 1, 2007, at 14.

⁴ Although the Sea Launch disaster occurred nearly three months ago, broadcast stations in Alaska and Hawaii were not required to make their digital signal carriage elections until April 1, 2007. See 47 C.F.R. § 76.66(c)(6). As a result, the nature and extent of DIRECTV’s digital carriage obligations in Alaska and Hawaii were not known until the April 1 election date.

⁵ R&O ¶ 21.

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For these reasons, and in order to avoid disruption of service to millions of Americans, DIRECTV respectfully requests additional time, beyond the June 8, 2007 deadline, to come into compliance with the Commission's digital carriage requirements in Alaska and Hawaii. When the DIRECTV 11 satellite is launched and operational, DIRECTV will be in a better position to meet such digital carriage obligations in these two states. In the interim, until DIRECTV 11 is fully operational, DIRECTV will continue to deliver at least the same level of service it currently provides in Alaska and Hawaii, including digital transmission (for use on either analog or digital television receivers) of the signals of local television stations in the two affected states.⁶

Please direct questions concerning this matter to the undersigned.

Sincerely,

/s/

Susan Eid
Senior Vice President

cc: Chairman Kevin J. Martin
Commissioner Michael J. Copps
Commissioner Jonathan S. Adelstein
Commissioner Deborah Taylor Tate
Commissioner Robert M. McDowell
Ms. Monica Desai, Chief, Media Bureau

⁶ Indeed, DIRECTV intends to launch a new satellite, DIRECTV 10, by the end of this year. High definition programming carried on our Spaceway satellite will be transferred to DIRECTV 10. DIRECTV is in the process of exploring the potential use of the capacity on the Spaceway satellite to provide additional digital carriage for local broadcast stations in Alaska and Hawaii. It remains uncertain, however, the extent to which that capacity can be used for local services in the two non-contiguous states. In any event, even with the addition of DIRECTV 10 and 11 to its fleet, DIRECTV will have to forego the initiation of local service in at least five other markets if the Commission has not reconsidered its interpretation of SHVERA's digital carriage requirements.